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10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
12

13 ZACHARY TUCH, an individual,
14 Plaintiff,
15 v.

16 SEDONA SCHAT, an individual;
17 NOAH YOO, an individual; ELEKTRA
18 RECORDS, LLC, a Delaware limited
liability company; and DOES 1 through
10, inclusive,
19 Defendants.
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CASE NO. 2:23-cv-03256

COMPLAINT FOR:

1. **DECLARATORY RELIEF**
2. **ACCOUNTING**

DEMAND FOR JURY TRIAL

1 **COMPLAINT**

2 Plaintiff Zachary Tuch p/k/a Zach Tuch (“Plaintiff”), demanding trial by jury,
3 complains and alleges as follows:

4 **INTRODUCTION**

5 1. Plaintiff is an accomplished producer, mixer, and mastering engineer
6 who has worked on various types of music from Alternative Rock to Hardcore.

7 2. As a producer, Plaintiff offers artists ideas to help better each song by
8 providing an informed outside perspective.

9 3. As a mixer, Plaintiff works with artists to create music that has
10 character, clarity, and depth that best represents each artist’s music. Plaintiff aims to
11 accomplish a well-rounded sound with large low end and modern presence.

12 4. Plaintiff has over a decade of experience as an engineer. He trained in
13 production at New York University’s prestigious Clive Davis Institute of Recorded
14 Music and has run sessions at renowned studios such as Dave Grohl’s Studio 606
15 and The Village. He also studied mastering (together with Defendant Noah Yoo)
16 with engineer Alan Silverman.

17 5. Plaintiff’s education and training allow Plaintiff to create final products
18 that are easily accessible in any listening setting, and that have competitive loudness
19 and tonal balance.

20 6. Cafuné is an American indie pop duo consisting of Defendants Sedona
21 Schat (“Schat”) and Noah Yoo (“Yoo”).

22 7. Cafuné released songs entitled “Friction” and “Tek It” in 2019. “Tek
23 It” went viral on TikTok in 2022.

24 8. Shortly after “Tek It” went viral, Cafuné was signed to Elektra
25 Records.

26 9. Schat and Yoo attended NYU’s Clive Davis Institute at the same time
27 as Plaintiff. They were classmates—in a small, intimate program—and subsequently
28 became friends. Schat and Yoo kept in touch with Plaintiff after graduation.

10. Following the success of “Tek It,” Schat, Yoo and Plaintiff would get together in Los Angeles for dinner, drinks, and to catch up and celebrate their shared success on “Tek It.”

11. As described in detail below, Plaintiff jointly created “Tek It” and “Friction” (together, the “Works”) with Cafuné. Despite his unique and creative contributions to the Works—not to mention the parties’ history and friendship—Cafuné refuses to acknowledge, credit, or compensate Plaintiff as a joint author and copyright owner in the Works, thereby forcing Plaintiff to bring this action.

12. This Court has jurisdiction over Plaintiffs' copyright claims under 28 U.S.C. §§ 1331, 1332, and 1338.

13. The amount in controversy exceeds the sum of seventy-five thousand dollars (\$75,000), not including interest and costs.

14. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and (c), and 28 U.S.C. § 1400(a) because the claims arise in this Judicial District and the Defendants transact business in this Judicial District.

15. Plaintiff is, and at all relevant times was, a resident of Los Angeles County. Plaintiff works from his private studio in Los Angeles, California.

16. On information and belief, Defendant Sedona Schat is, and at all relevant times was, a resident of New York County. Schat is a singer-songwriter and producer for Cafuné, which regularly conducts business in Los Angeles County.

17. On information and belief, Defendant Noah Yoo is, and at all relevant times was, a resident of New York County. Yoo is a producer and songwriter for Cafuné, which regularly conducts business in Los Angeles County.

18. On information and belief, Elektra Records, LLC is, and at all relevant times was, a Delaware limited liability company that regularly conducts business in Los Angeles County. Among other connections, on information and belief, Elektra's

1 artists and repertoire representative lives and operates in this Judicial District. Schat
2 and Yoo are signed to Elektra Records as Cafuné.

3 19. Defendants Does 1 through 10 are sued by fictitious names as their true
4 names are currently unknown to Plaintiffs. Plaintiffs will seek leave to amend this
5 complaint to allege the true identities of these Defendants when the same have been
6 ascertained.

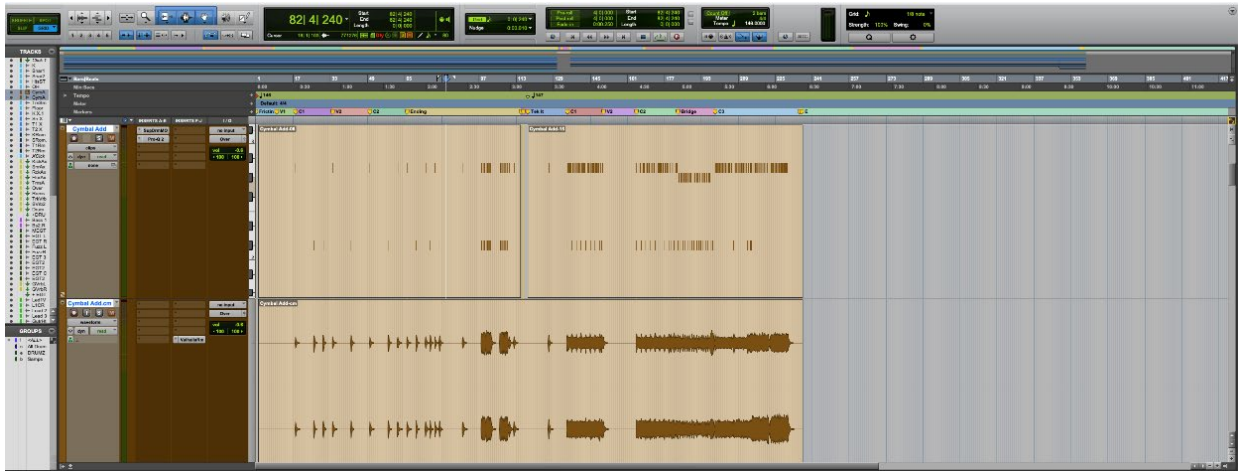
7 20. Plaintiff is informed and believes that at all relevant times, all
8 Defendants were the agents and/or co-conspirators of their co-defendants, and in
9 doing the things hereinafter alleged, were acting within the course and scope of their
10 authority as those agents and/or co-conspirators and with the permission and consent
11 of their co-defendants.

12 **FACTUAL ALLEGATIONS**

13 21. Schat and Yoo reached out to Plaintiff, their friend and former
14 classmate at NYU, in August 2019 for help contributing to a couple of songs, which
15 were subsequently released with the titles “Friction” and “Tek It” (together, the
16 “Works”).

17 22. In addition to mixing the Works, Plaintiff made substantial unique and
18 creative contributions to the Works. Specifically, Plaintiff contributed the following:

19 A. Plaintiff added approximately 497 MIDI notes, which he
20 individually placed and aligned by hand to create MIDI instrument cymbal
21 sounds. The velocities of these MIDI notes were also adjusted by hand to
22 supplement the dynamics of the original cymbal hits. The image below
23 reflects Plaintiff’s additions.
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B. Plaintiff added four samples to the kick drum, some of which Plaintiff performed, recorded and processed himself before working on the Works. Plaintiff mixed the four samples together with the original kick drum performance using Steven Slate Trigger to create a new sonically distinct sound.

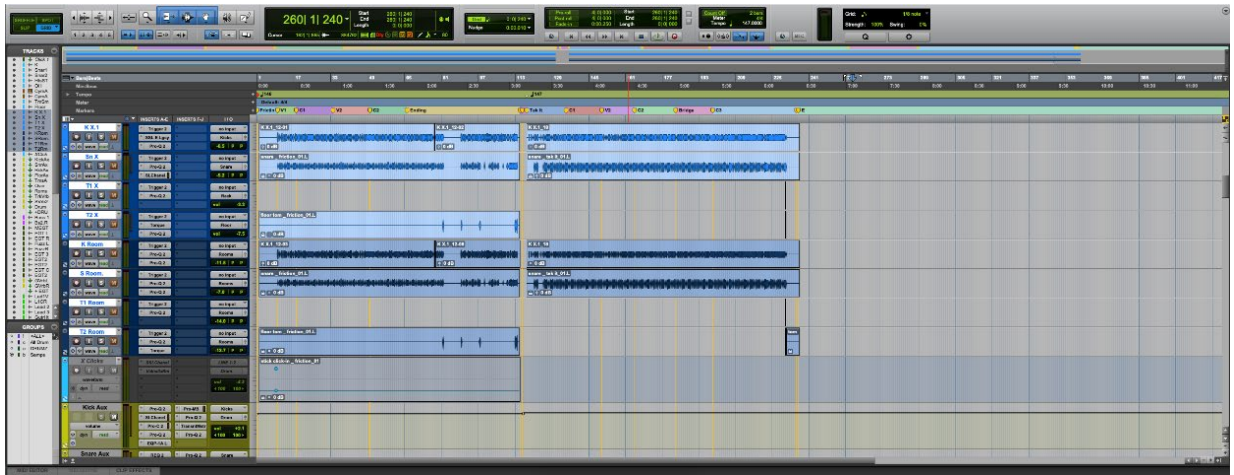
C. Plaintiff added two samples to the snare drum, some of which Plaintiff performed, recorded and processed himself before working on the Works. Plaintiff mixed the two samples together with the original snare drum performance using Steven Slate Trigger to create a new sonically distinct sound.

D. Plaintiff added four samples to the rack tom drum, some of which Plaintiff performed, recorded and processed himself before working on the Works. Plaintiff mixed the four samples together with the original rack tom drum using Steven Slate Trigger to create a new sonically distinct sound.

E. Plaintiff added four samples to the floor tom drum, some of which Plaintiff performed, recorded and processed himself before working on the Works. Plaintiff mixed the four samples together with the original floor tom drum using Steven Slate Trigger to create a new sonically distinct sound.

F. Plaintiff also added “room” samples to give the four drum shells more depth and a more lively feel. The kick drum has one room sample

performed, recorded and processed by Plaintiff. The snare drum has one room sample performed, recorded and processed by Plaintiff. The rack tom drum has one room sample performed, recorded and processed by Plaintiff. And the floor tom drum has one room sample performed, recorded and processed by Plaintiff. The image below reflects all eight instances of samples:



G. On each chorus of each song, Plaintiff took the lead vocal and pitched it down an octave, then used the result as a harmony to add depth. The image below reflects these additions.



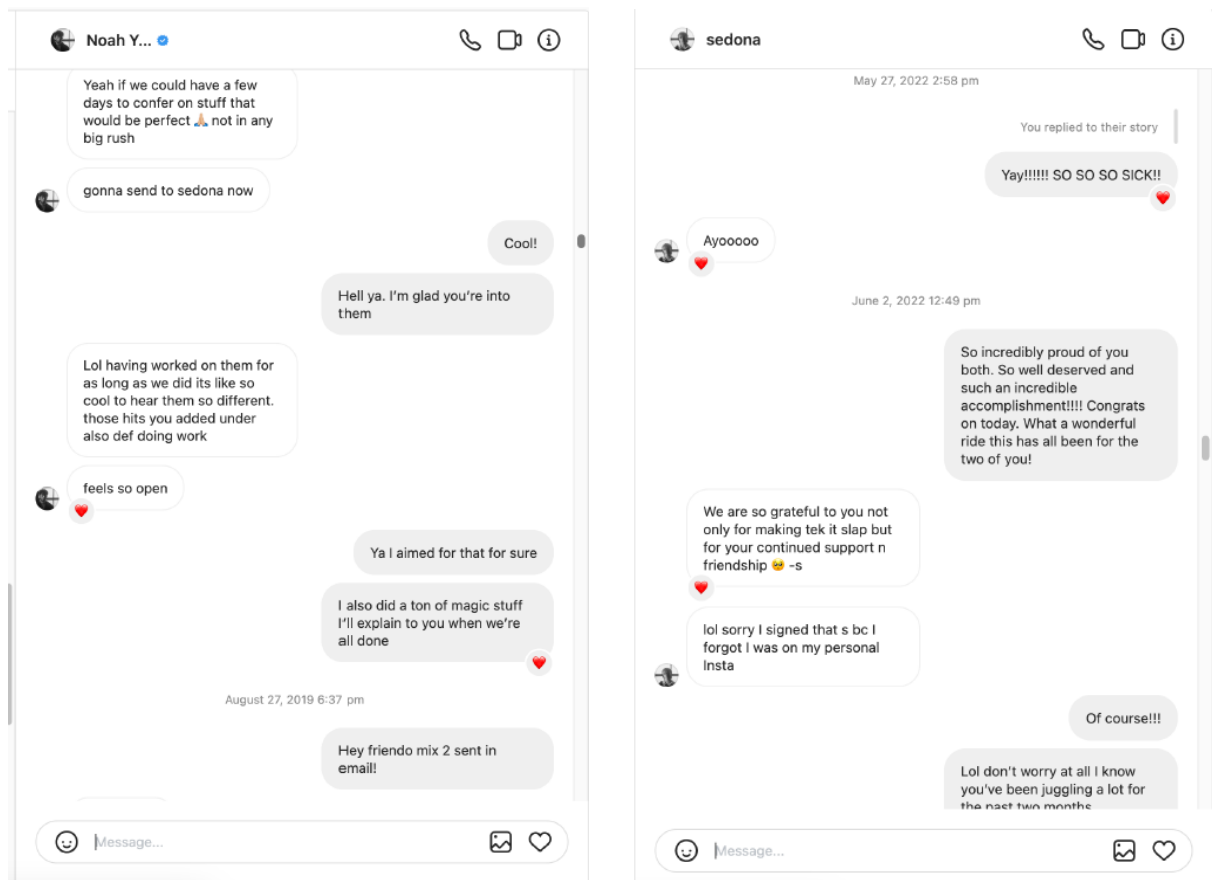
23. In sum, Plaintiff added his own sounds—from his own independent works—to the Works. Despite Plaintiff's significant contributions, Cafuné refuses to acknowledge, credit, or compensate Plaintiff as a joint author and copyright owner in the Works.

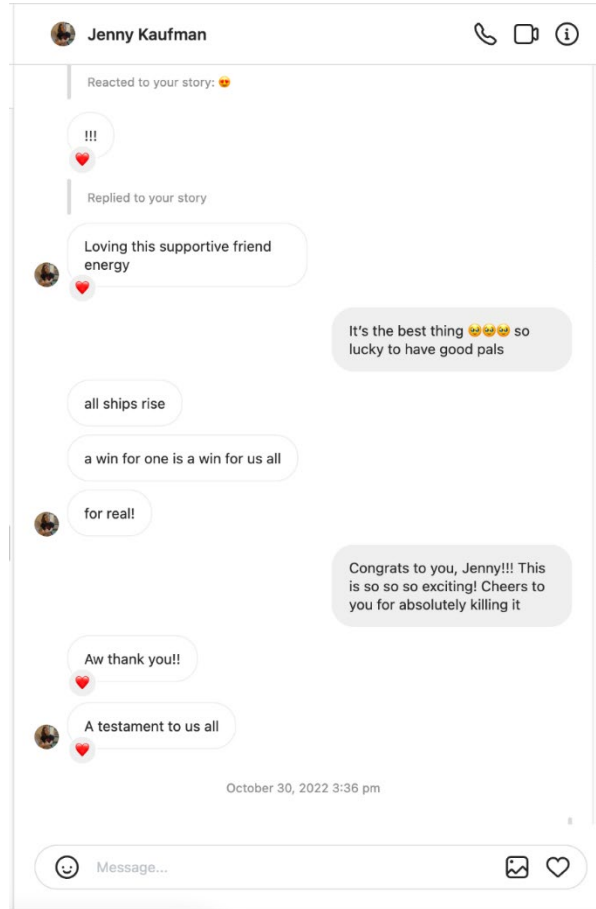
24. Yoo thanked Plaintiff in writing for making the Works sound “so different” and “so open” with what Plaintiff “added.” Yoo also told Plaintiff the success of “Tek It” “[w]ould not have happened without you my guy!”

25. Schat also thanked Plaintiff in writing for “making tek it slap,” and noted that Cafuné was “indebted to you [Plaintiff].”

26. With the success of “Tek It,” Jenny Kaufman, Cafuné’s manager, confirmed to Plaintiff that “all ships rise” and “a win for one is a win for us all.”

27. A sampling of messages acknowledging Plaintiff’s significant contributions to the Works follow.



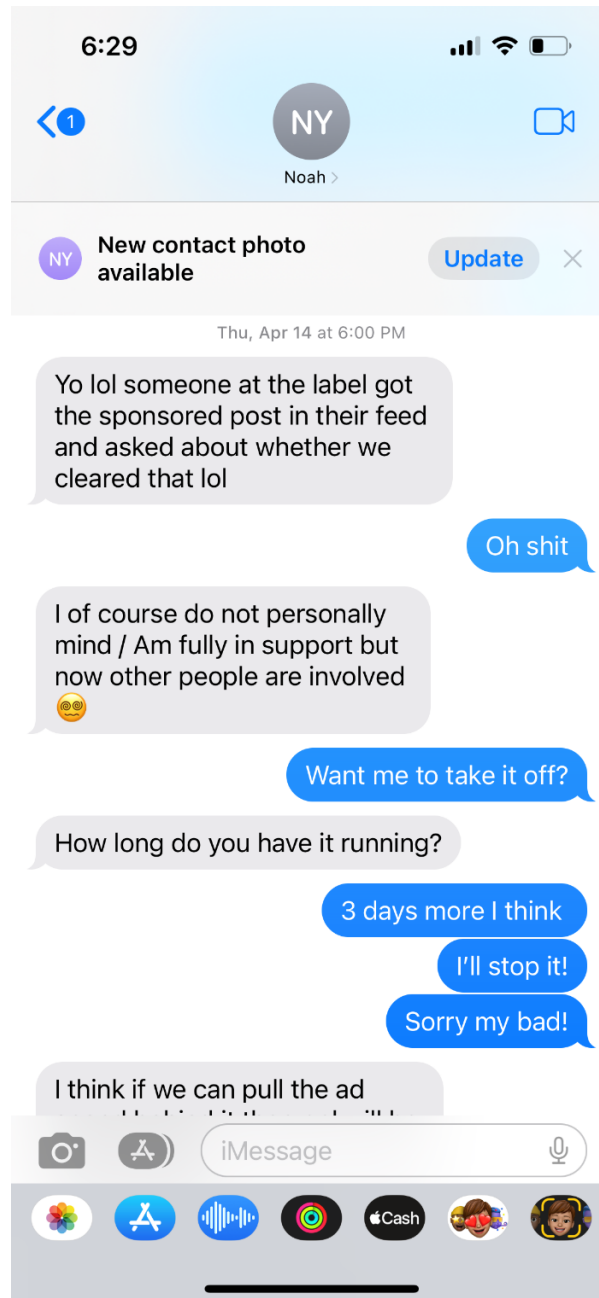


28. In 2022, “Tek It” went viral on Tik Tok, introducing millions of user-listeners to the song and Cafuné, making the song a staple of the platform and being used in thousands of other user-generator’s videos. Additionally, almost six million listeners per month listen to “Tek It” on Spotify.

29. “Tek It” was certified gold and then platinum. With each certification, Yoo allowed Plaintiff to post on social media, tagging @wearecafune, to jointly celebrate and promote their success. Cafuné also agreed to purchase for Plaintiff (but has not done so yet) one plaque indicating the song’s gold and platinum status, and also to order for Plaintiff an additional three plaques.

30. Schat and Yoo signed with Elektra Records in 2022 following the remarkable success of “Tek It.”

31. Plaintiff paid for an ad out of his own pocket—using the band’s cover art, with their permission—to promote “Tek It,” after it had gone viral. Elektra Records subsequently requested that Plaintiff take the ad down, for which Yoo and Schat apologized to Plaintiff.



32. Since creating the Works, Cafuné also requested from Plaintiff an instrumental version of “Tek It,” as well as stems prepared for Dolby Atmos Mix, which Plaintiff provided without charging his co-authors.

33. Despite the remarkable success of Cafuné and, in particular, “Tek It,” Defendants refuse to acknowledge, credit, or compensate Plaintiff, their friend, as a joint author and copyright owner in the Works.

FIRST CAUSE OF ACTION

Declaratory Judgment of Copyright Ownership of “Tek It” (Against Defendants Schat and Yoo)

34. All previous allegations are realleged and incorporated herein by reference.

35. As a result of Plaintiff’s substantial unique and creative contributions to “Tek It,” Plaintiff is a joint copyright owner of the work pursuant to United States copyright laws.

36. Specifically, the Copyright Act, 17 U.S.C. § 101, et seq. (the “Act”) recognizes the rights of authors of joint works. According to the Act, a “joint work” is one “prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.” Each author automatically acquires an undivided ownership in the entire work including any portion of it. The Act, at 17 U.S.C. § 201(a), provides that “the authors of a joint work are co-owners of copyright in the work.”

37. Defendants Schat and Yoo are the owners of record of the copyright for “Tek It.” Defendants dispute that Plaintiff is a joint copyright owner of the work and refuse to acknowledge, credit, or compensate Plaintiff as a joint author of the work.

38. A declaration of rights is necessary and appropriate at this time so that Plaintiff may ascertain his rights and duties with respect to Defendants, and with respect to any third parties who may claim an interest in the copyright for “Tek It.”

SECOND CAUSE OF ACTION

Declaratory Judgment of Copyright Ownership of “Friction” (Against Defendants Schat and Yoo)

39. All previous allegations are realleged and incorporated herein by

1 reference.

2 40. As a result of Plaintiff's substantial unique and creative contributions to
3 "Friction," Plaintiff is a joint copyright owner of the work pursuant to United States
4 copyright laws.

5 41. Specifically, the Copyright Act, 17 U.S.C. § 101, et seq. (the "Act")
6 recognizes the rights of authors of joint works. According to the Act, a "joint work"
7 is one "prepared by two or more authors with the intention that their contributions
8 be merged into inseparable or interdependent parts of a unitary whole." Each author
9 automatically acquires an undivided ownership in the entire work including any
10 portion of it. The Act, at 17 U.S.C. § 201(a), provides that "the authors of a joint
11 work are co-owners of copyright in the work."

12 42. Defendants Schat and Yoo are the owners of record of the copyright for
13 "Friction." Defendants dispute that Plaintiff is a joint copyright owner of the work
14 and refuse to acknowledge, credit, or compensate Plaintiff as a joint author of the
15 work.

16 43. A declaration of rights is necessary and appropriate at this time so that
17 Plaintiff may ascertain his rights and duties with respect to Defendants, and with
18 respect to any third parties who may claim an interest in the copyright for
19 "Friction."

20 **THIRD CAUSE OF ACTION**

21 **Accounting for "Tek It"**

22 **(Against All Defendants)**

23 44. All previous allegations are realleged and incorporated herein by
24 reference.

25 45. Plaintiff is a co-owner of the copyright for "Tek It" and, as such, is
26 entitled to an equal share of all profits (royalties, license fees, etc.) from the
27 exploitation of the copyright, and an accounting to determine such profits.

28 46. Plaintiff is unable to ascertain the amount of profits earned from "Tek

1 It.” An unknown balance is due to Plaintiff that cannot be ascertained without an
2 accounting.

3 47. Accordingly, Plaintiff requests that the Court order Defendants to
4 provide an accounting for the profits earned from “Tek It.”

5 **FOURTH CAUSE OF ACTION**

6 **Accounting for “Friction”**

7 **(Against All Defendants)**

8 48. All previous allegations are realleged and incorporated herein by
9 reference.

10 49. Plaintiff is a co-owner of the copyright for “Friction” and, as such, is
11 entitled to an equal share of all profits (royalties, license fees, etc.) from the
12 exploitation of the copyright, and an accounting to determine such profits.

13 50. Plaintiff is unable to ascertain the amount of profits earned from
14 “Friction.” An unknown balance is due to Plaintiff that cannot be ascertained
15 without an accounting.

16 51. Accordingly, Plaintiff requests that the Court order Defendants to
17 provide an accounting for the profits earned from “Tek It.”

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff demands judgment against Defendants for the
20 following:

- 21 a. Declaratory relief;
- 22 b. Injunctive relief;
- 23 c. An accounting;
- 24 d. Reasonable attorneys’ fees;
- 25 e. Costs of this action;
- 26 f. Pre- and post-judgment interest; and
- 27 g. Any other and further relief that the Court deems just and proper.

1 Dated: April 28, 2023

KIBLER FOWLER & CAVE LLP

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4 By: /s/ Matthew J. Cave

5 Matthew J. Cave

6 Kevin C. Kroll

7 *Attorneys for Plaintiff*

8 *Zachary Tuch*

DEMAND FOR JURY TRIAL

Plaintiff Zachary Tuch hereby demands a trial by jury.

Dated: April 28, 2023

KIBLER FOWLER & CAVE LLP

By: /s/ Matthew J. Cave

Matthew J. Cave

Kevin C. Kroll

Attorneys for Plaintiff

Zachary Tuch